

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6752

BILL NUMBER: SB 181

NOTE PREPARED: Mar 30, 2009

BILL AMENDED: Mar 30, 2009

SUBJECT: Child Seduction and Repeat Sex Offenders.

FIRST AUTHOR: Sen. Lubbers

FIRST SPONSOR: Rep. Pierce

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

- A. *Child Seduction* – It expands the group of persons who commit child seduction by adding persons employed by a charter school or special education cooperative and persons otherwise affiliated with a school corporation, charter school, nonpublic school, or special education cooperative if the person affiliated with the school or cooperative: (1) has a position of trust with respect to a child who attends the school or cooperative; (2) is engaged in the provision of care or supervision to a child who attends the school or cooperative; and (3) is at least four years older than the child. It provides that a military recruiter whose primary job is recruiting individuals to enlist with the armed forces commits child seduction if the military recruiter who is attempting to enlist a child at least 16 years old but less than 18 years: (1) engages in sexual intercourse with the child; (2) engages in deviate sexual conduct with the child; or (3) fondles the child.
- B. *Repeat Sex Offenders* – It provides that an attempted sex offense may be used to establish that a person is a repeat sex offender.
- C. *Releasing Information on Sex Offenders* – It authorizes the release of certain medical or epidemiologic information of persons convicted of certain sex offenses.

Effective Date: July 1, 2009.

Explanation of State Expenditures: *Child Seduction* – There are no data available to indicate how many more child care workers or military recruiters may be convicted of the child seduction, a Class D felony, if the definition of a child care worker is expanded. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor, depending upon mitigating and

aggravating circumstances. The average expenditure to house an adult offender was \$20,287 in FY 2008. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$69,223. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months. [On average between 2003 and 2007, there were four offenders a year committed to a state correctional facility for child seduction.]

Repeat Sex Offenders – This provision could increase the number of prison beds required, but the increase would be minimal. LSA identified no more than four offenders in any year between CY 2003 and 2007 who were committed to the DOC for an attempted sex crime and had been incarcerated in the past for another unrelated sex crime. The average expenditure to house an adult offender was \$20,287 in FY 2008. (This does not include the cost of new construction.)

Offenders Committed to DOC for Attempted Sex Crimes With Prior Sex Crime Conviction				
2003	2004	2005	2006	2007
1	4	3	1	0

(Revised) *Releasing Information on Sex Offenders* – Under current law, results of tests that confirm communicable diseases of offenders who are convicted of certain sex crimes are not permitted to be made public. As amended, these test results can be released or made public upon subpoena. The Department of Health is currently researching whether this would violate federal laws concerning the Health Insurance Portability and Accountability Act. [This portion of the fiscal note will be updated with this information when it becomes available.]

Explanation of State Revenues: *Child Seduction* – If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Explanation of Local Expenditures: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 criminal costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of the criminal costs fee. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected: DOC.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association; DOC.

Fiscal Analyst: Mark Goodpaster 317.232.9852